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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/813,449

03/30/2004

Enrique J. Klein

16497.28.1

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08/28/2009

WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

EXAMINER

DOWE, KATHERINE MARIE

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

08/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. The following is a complete response to the amendment filed May 4, 2009.
2. Claims 1, 2, 5-14, 16-20, 23, and 24 are currently pending.

Claim Rejections - 35 USC § 112

3. The amendment to claims 1 and 24 are acknowledged. Accordingly, the rejections of the claims under 35 U.S.C. 112, second paragraph, as lacking antecedent basis are withdrawn.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1, 2, 5-14, 16-20, 23, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Sauer et al. (US 5,368,601). Sauer et al. disclose a method for suturing tissue in the proximity of an aperture in a tissue wall comprising positioning distal-most ends of a suture (94) distally of the aperture of the tissue wall (Fig 12), advancing first (56) and second (58) needles from a distal side of the tissue wall (128) to form a port within the tissue wall in proximity of the aperture and drawing at least a portion of the suture from the distal side of the tissue wall to the proximally through the port in the tissue wall (Figs 13-14), and forming a loop with the remaining portion of the suture to secure the suture (Fig 15; col 5, ll 23-55). The needles and suture are advanced by advancing a shaft (12) that supports the needles on its distal end through the aperture.

Response to Arguments

6. Applicant's arguments, see amendment, filed May 4, 2009, with respect to the rejection(s) of claim(s) 1, 2, 5-14, 16-20, 23, and 24 under Heidmueller (US 5,320,632) have been fully considered and are persuasive. Applicant argues Heidmueller does not disclose positioning distal-most ends of a suture distally of the aperture of the tissue wall. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sauer et al. (US 5,368,601).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3734

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KATHERINE M. DOWE whose telephone number is (571)272-3201. The examiner can normally be reached on M-F 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Katherine Dowe
August 25, 2009

/K. M. D./
Examiner, Art Unit 3734

/Anh Tuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
8/27/09